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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,112	09/15/2003	Norman S. Martucci	0153.00102	1825

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KOHN & ASSOCIATES, PLLC  
Suite 410  
30500 Northwestern Highway  
Farmington Hills, MI 48334

EXAMINER
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HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,112	<b>Applicant(s)</b> MARTUCCI ET AL.	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,8-10,12,13,15,16 and 21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,12,13,15,16 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant sets forth in claim 21 that a jacket layer is extruded over "the braid layer", however there is no antecedent basis for the term "the braid layer" prior to its use in claim 21 or in claim 15 from which it depends. Also, claim 15 recites the jacket formed about the first layer which is unclear when claim 21 sets forth that the jacket layer is provided over the braid layer, thereby rendering the claim indefinite where the scope of the claim cannot be determined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 8-10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Martucci (527). The reference to Nakagawa discloses the recited hose assembly as seen in figure 13d consisting of an inner jacket 11 provided with a plurality of compartments, where the compartments provide means

to carry fluids there through, and the layer is made of a polymeric material such as nylon which is a polyamide, an outer layer 12 is provided outside of the inner jacket and can also be formed of the same or different types of materials including nylons which are polyamides, couplings 12a are provided at the ends, and a method of making such a hose is also given including extrusion techniques. The reference to Nakagawa discloses all of the recited structure with the exception of forming the inner layer of a fluorocarbon material such as PTFE and providing the inner layer with carbon black to make it conductive. The patent to Martucci discloses the recited hose for use in an automobile comprising forming the first inner layer 12 of a fluorocarbon such as set forth in claim 5, including PTFE which are known equivalent materials used for inner layers of hoses in contact with fuels, a jacket 14 is provided over the hose assembly and is made of polyamide such as those listed in claim 10, a braid layer 26 can be disposed between the first layer and the jacket, means such as carbon black can be added to strip 16 in the first layer to conduct electrical charges, a coupling means 18 can be provided, and the method of forming the tube is also provided. It would have been obvious to one skilled in the art to modify the inner layer of Nakagawa to be formed of a polymeric fluorocarbon where such is a known equivalent material used for an inner layer of a hose intended to carry or be exposed to fuels and to provide the inner layer with carbon black to make the layer conductive to allow for charge dissipation as suggested by Martucci where such would make the hose stronger, and less apt to deteriorate using the superior materials set forth in Martucci when such is used in an environment in

contact with fuels providing carbon black prevents failure due to static charge build up, where such would reduce replacement costs and thereby save money.

Claims 15, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashcraft in view of Martucci (527). The patent to Ashcraft discloses the recited hose assembly comprising an inner jacket 110, where it is disclosed in column 4, lines 50-57 that the spacers which form the compartments can be formed integral with the inner jacket 110, the combination of layer 110, 122 forms the inner layer with compartments, where the compartments provide means to carry fluids there through, and the layer is made of a polymeric polyamide material, an outer layer 126 is provided outside of the inner jacket and can also be formed of many different types of polyamides list in column 4, lines 58-67, as well as extra layers 124, couplings are provided at the ends, additives can be provided to the inner layers to make the layers conductive, and a method of making such a hose is also given including extrusion. The use of the hose as a fuel tube is also set forth, where it is not clear if such is used in an automobile or not, however, such is considered merely intended use where the hose is capable of use in an automobile if such is designed to carry types of fuels such as types of gasolines. The patent to Ashcraft discloses all of the recited structure with the exception of forming the inner jacket of a polymeric fluorocarbon, and providing a braided layer between an outermost layer and the inner layer. The patent to Martucci discloses the recited hose for use in an automobile comprising forming the first inner layer 12 of a fluorocarbon such as set forth in claim 5, including PTFE which are known

equivalent materials used for inner layers of hoses in contact with fuels, a jacket 14 is provided over the hose assembly and is made of polyamide such as those listed in claim 10, a braid layer 26 can be disposed between the first layer and the jacket, means such as carbon black can be added to strip 16 in the first layer to conduct electrical charges, a coupling means 18 can be provided, and the method of forming the tube is also provided. It would have been obvious to one skilled in the art to modify the inner layer of Ashcraft to be formed of a polymeric fluorocarbon where such is a known equivalent material used for an inner layer of a hose intended to carry fuels, and to provide a braided reinforcement layer between the inner and outer layers to provide strength to the tube to prevent damage as suggested by Martucci where such would make the hose stronger, and less apt to deteriorate using the superior materials set forth in Martucci when such is used in an environment in contact with fuels, where such would reduce replacement costs and thereby save money.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 8-10, 12, and 13 have been considered but are moot in view of the new ground(s) of rejection.

With respect to the arguments directed toward Ashcraft in view of Martucci, such are not persuasive with regards to the method claims. As set forth in the rejection the patent to Ashcraft suggests forming the inner layer 110 with the spacers integrally which would thereby provide the inner layer with compartments, when such has not been further defined, and where the claim language does not require such to be

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a single integral layer, just a layer formed with compartments which is what is taught by Ashcraft. Therefore, the arguments are more persuasive than the current claim language. It is also noted that the new rejection above would also possibly read on the method claims, however, such is not being applied at this time since the original rejection still meets the claim language where the added limitations to the article claims were not added to the method claims at this time.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Shifman and Kertesz disclosing stat of the art tubes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

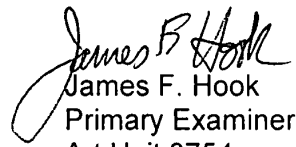
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James F. Hook  
Primary Examiner  
Art Unit 3754

JFH